

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2020

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

A.No.1275 of 2020

The Waterbase Limited
Rep. By its Company Secretary
R.Achuthan
Thapar House
No.37, Montieth Road, Egmore
Chennai – 600 008

... Applicant

vs.

M/s. Sri Sai Lakshmi Agencies
Rep. By Sole Proprietor
D.Venkateswarlu
2/392/1, Nazeer Thota
Nawabpet
Nellore – 524 002
Andhra Pradesh

... Respondent

Application filed under Order 14 Rule 8 of Original Side Rules read with Section 9(ii)(d) & 9 (ii)(e) of the Arbitration and Conciliation Act, 1996 to direct the respondent to furnish security to the sum of Rs.2,49,44,552/- (Rupees Two Crore Forty-Nine Lakh Forty Four Thousand Five Hundred and Fifty Two) within the time fixed by this Court.

For Applicant : Mr.Adarsh Subramanian

ORDER

Captioned application is *inter alia* under Section 9 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)', which shall hereinafter be referred to as 'A and C Act' for the sake of brevity. Owing to recusal by a Hon'ble single Judge on 04.11.2020, Registry has listed this matter before me in accordance with Standing Orders/Notification made by Hon'ble Chief Justice.

2. Be that as it may, today in this web-hearing on a video-conferencing platform i.e., virtual hearing, Mr.Adarsh Subramanian, learned counsel on record for sole applicant and Mr.S.Hussain Afroze, learned counsel on record for lone respondent are before me.

3. Both the learned counsel make a common submission in unison that there are two dealership agreements between the applicant and respondent, one dated 20.04.2016 and another dated 20.04.2019. Both the learned counsel submit that in both these dealership agreements, Clause 55 captioned 'Arbitration' serves as an arbitration agreement between the applicant and respondent i.e., arbitration agreement within the meaning of Section 2(1)(b) read with Section 7 of A and C Act. To

be noted, this Court is informed that Clause 55 in both the dealership agreements are identically worded (couched in same language) and the same reads as follows:

'55) Arbitration- Any disputes, differences or question which, may arise at any time thereafter between TWL and the Dealer touching the true construction of this agreement or the rights and liabilities of the parties hereto, or to the operation of this Agreement, such dispute or difference shall be referred by either party to arbitration by an arbitrator to be appointed by TWL under the provisions of the Indian Arbitration and Conciliation Act, 1996, as amended from time to time, for the time being in force or any other act passed in substitution thereof or modification thereof, and for the time being in force and the provisions shall apply to such arbitration accordingly. The venue of arbitration shall be Chennai.'

4. Both the learned counsel make a common submission in unison that existence of arbitration agreement between the applicant and respondent qua aforesaid dealership agreement is not disputed or in other words, there is no disputation or disagreement between the parties regarding existence of the arbitration agreement between parties qua aforementioned two dealership agreements.

5. In the aforesaid backdrop, both sides i.e., applicant and respondent, have filed a Joint Memo dated 15.12.2020 and a scanned reproduction of the same is as follows:

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)
O.A. No. 1275 OF 2020

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Rep. by its Company Secretary
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Thapar House,
No. 37, Monteth Road,
Egmore
Chennai - 600 008

...APPLICANT

Va.

M/s. Sri Sai Lakshmi Agencies
Rep. by Sole Proprietor
D. Venkateswara
2/392/1, Nazeer Thota
Nawalpet,
Nellore - 524 002
Andhra Pradesh

...RESPONDENT

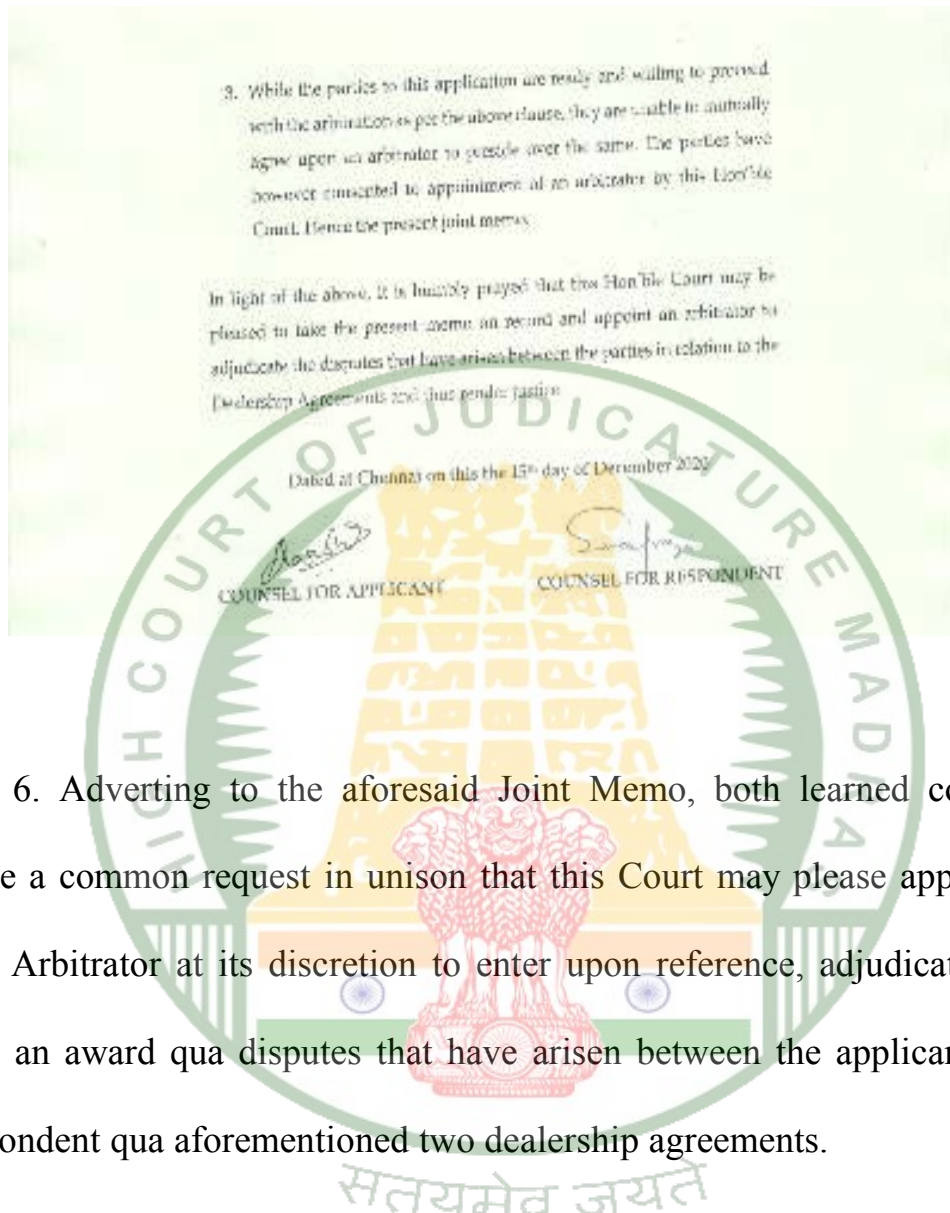
JOINT MEMO

The present memo is being filed jointly by the parties to this Application. It is submitted as under:

1. It is submitted that the present application arises out of Dealership Agreements dated 29.08.2016 and 20.08.2019 entered in to between the parties herein.
2. The said Agreements contain an arbitration clause in Clause 55 which provides as under:

"Arbitration - Any disputes, differences or question which may arise at any time hereafter between TWL and its Dealer touching the true construction of this Agreement or the rights and liabilities of the parties hereto, or to the operation of this Agreement, such dispute or difference shall be referred by either party to arbitration by an arbitrator to be appointed by TWL, under the provisions of the Indian Arbitration and Conciliation Act 1996, as amended from time to time, for the time being in force or any other act passed in substitution thereof or modification thereof, and for the time being in force, and the provisions shall apply to such arbitration accordingly. The venue of arbitration shall be Chennai."

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6. Adverting to the aforesaid Joint Memo, both learned counsel make a common request in unison that this Court may please appoint a sole Arbitrator at its discretion to enter upon reference, adjudicate and pass an award qua disputes that have arisen between the applicant and respondent qua aforementioned two dealership agreements.

7. Hon'ble Mr.Justice G.Rajasuria (Retd.), former Hon'ble Judge of this Court, residing at No.31, III Cross, Brindavanam, Puducherry (Mob: 94421 50864) is therefore appointed as sole Arbitrator to enter upon reference, adjudicate and pass an award qua arbitral disputes between the applicant and respondent with regard to dealership agreements dated 20.04.2016 and 20.04.2019. Hon'ble Arbitrator is requested to conduct

Arbitration at the Arbitration and Conciliation Centre under the aegis of this Court in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and the Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.

8. This Court is informed that D.Venkateswarlu, who is carrying on business in the name and style of Sri Sai Lakshmi Agencies as Sole Proprietor can speak/is conversed with Telugu only and he has to depose. Registry informs me that Interpreter qua Telugu is available in the Registry. On request from Hon'ble Arbitrator (through MHCAC), Registrar General of this Court shall make available the Interpreter for the purpose of above arbitration.

There shall be no order as to costs.

16.12.2020

Speaking order: Yes/No

Index: Yes/No

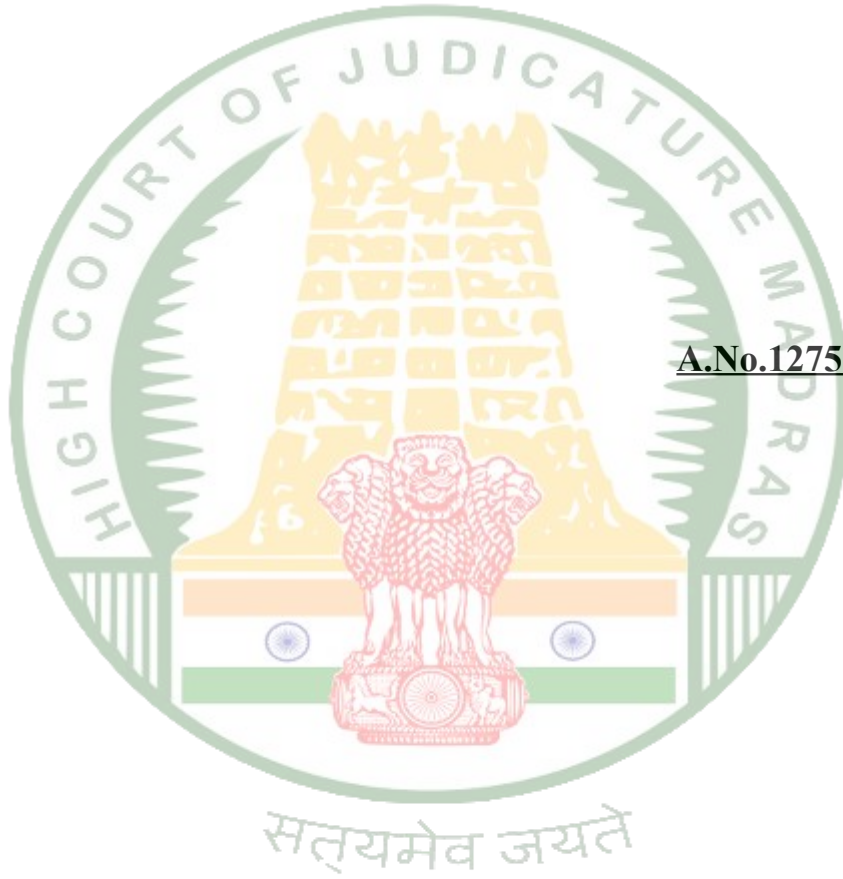
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Note: Registry is directed to communicate this order to Hon'ble Mr.Justice G.Rajasuria (Retd.), residing at No.31, III Cross, Brindavanam, Puducherry (Mob: 94421 50864)

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M.SUNDAR.J.,

gpa



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